



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED] DECISION
[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed August 26, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Dane County Department of Human Services in regard to Child Care, a hearing was held on October 13, 2015, at Madison, Wisconsin.

The issue for determination is whether the agency erred in terminating petitioner's CC due to non-cooperation with the child support enforcement program.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: [REDACTED]
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Petitioner missed two circuit court hearings that were scheduled to establish a child support order for the father of one of her children.

3. The CS agency sent notices to petitioner to gather information to establish paternity on 11/7/13, 1/9/14, and 1/27/14. Petitioner did not respond to any of those notices.
4. A notice was sent in July 2014 and this elicited a response. Petitioner was not thorough or accurate in her response. Petitioner did not name [REDACTED] as a possible father of the children.
5. Genetic testing determined the father of the children to be [REDACTED].
6. The CS agency petitioned for a hearing to establish support by [REDACTED].
7. Petitioner failed to appear for a hearing to establish support on April 21, 2015.
8. Petitioner failed to appear, after being personally served with a summons to appear, for a hearing to establish support on July 14, 2015.
9. On July 14, 2015, the CS agency determined that petitioner was being non-cooperative with the agency in the effort to establish support.
10. CC benefits were terminated effective August 31, 2015.

DISCUSSION

Wis. Stat., § 49.155 authorizes the department to operate a child care subsidy for Wisconsin Works (W-2) recipients and working parents. All childcare funding distribution falls under the aegis of the Wisconsin Works (W-2) program, regardless of whether or not the applicant is actually a participant in W-2 activities. Wis. Stat. § 49.155(1m). The department has a *Child Day Care Manual* that provides the specific activities, policies and eligibility requirements (including a discussion of income limits) to qualify for the program. <http://www.dwd.state.wi.us/dws/programs/childcare/wishares/manual.htm>. The *Child Care Manual* states that all parents receiving CC benefits “must fully cooperate with...child support enforcement for paternity establishment and support collections...” *CC Manual* at § 1.4.7 (12/10/13).

In a Fair Hearing concerning the propriety of a denial of benefits, such as this, the county agency has the burden of proof to establish that the action taken by the county was proper. The petitioner must then rebut the agency’s case and establish facts sufficient to overcome the evidence of correct action by the agency in determining the denial action was required.

In this case, the county agency determined that petitioner was ineligible for child care benefits because she had failed to cooperate with the Child Support Enforcement program. Petitioner failed to appear at two hearings to establish a support order. Petitioner explained that her missing the hearings was simply by mistake. I saw little in this record to suggest that petitioner has been conscientious at all in this effort. Cooperation is a requirement if petitioner is to seek public benefits. Thus, I must conclude that the county agency correctly denied petitioner’s child care benefits due to her failure to comply with the CSE program.

CONCLUSIONS OF LAW


The county agency correctly denied petitioner’s child care benefits due to her failure to comply with the CSE program.

NOW, THEREFORE, it is

ORDERED

That the matter herein be and is hereby dismissed.

REQUEST FOR A REHEARING


You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

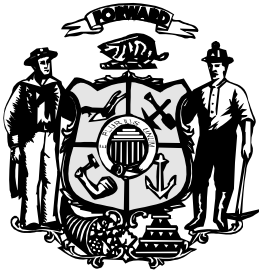
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 20th day of November, 2015

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 20, 2015.

Dane County Department of Human Services
Child Care Benefits